

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
Northern District of California
CIVIL MINUTES

Date: October 23, 2018

Time: 3:41 – 5:06 =
1 Hour; 25 Minutes

Judge: EDWARD M. CHEN

Case No.: [16-cv-01386-EMC](#) **Case Name:** Securities and Exchange Commission v. Bivona

Attorneys for Plaintiff: John Yun, Marc Katz

Attorneys for Defendant: John Cotton, Jonathan Levine, Patricia Schrage

Attorneys for Interested Parties: Daniel Goldberg, Karen Sebaski, Theodore Griffinger.

Interested Party Also Present (via Courtcall): Georgiana Nertea, Andrew DeCamara

Deputy Clerk: Angella Meuleman

Court Reporter: JoAnn Bryce

PROCEEDINGS

Motion for Approval of Fees and Motion to Approve Amended Distribution Plan held.

SUMMARY

After hearing from all parties, the Court notes several concerns: the complexity of outstanding issues (including that EAC is resisting exchanging shares, and is in fact asserting \$1.5 million in guarantees against Receivership entities, even though EAC never previously asserted such a claim); the substantial risk of an asset shortfall; and the management structure proposed in the SRA Investor Group's plan. The Court is accordingly inclined to adopt a plan based on the one proposed by the SEC and Receiver subject to certain modifications, and orders the parties to file an amended plan within 30 days addressing the following:

1. A structure for giving investors input into the administration of the plan;
2. A specific proposal for a pared down receivership or equivalent model with an estimate of its expected costs going forward;
3. A clarification that the early payment option can be exercised only if feasible and approved by the Court.

The Court will continue to examine the treatment of the creditor claimants and the claimants whose investments now have no value.

The Court takes the matters under submission. The parties shall submit a revised plan as stated on the record. Fee application granted.

Further Status re Distribution Plan: Dec 13, 2018 at 1:30 p.m. before Judge Edward M. Chen.